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13 UNITED STATES DISTRICT COURT

14 FOR THE CENTRAL DISTRICT OF CALIFORNIA

15 SECURITIES AND EXCHANGE
16 COMMISSION,

17 Plaintiff,

18 v.

19 ANDREW LEFT and CITRON CAPITAL,
20 LLC,

21 Defendants.

No. 2:24-cv-06311-SPG-RAO

GOVERNMENT'S REPLY TO DEFENDANTS'
OPPOSITION TO MOTION TO INTERVENE
AND TO STAY DISCOVERY; MEMORANDUM
OF POINTS AND AUTHORITIES

Hearing Date: August 13, 2025
Hearing Time: 1:30 p.m.

22 The United States of America, by and through its counsel of
23 record, the Acting United States Attorney for the Central District
24 of California, the Acting Chief of the Fraud Section of the Criminal
25 Division of the U.S. Department of Justice, Assistant United States
26 Attorneys Alexander B. Schwab and Haoxiaohan Cai and Trial Attorneys
27 Lauren Archer and Matthew Reilly, hereby file this reply to
28 defendants' opposition to the government's motion to intervene and to

1 stay discovery in this action under Federal Rule of Civil Procedure
2 24, pending resolution of United States v. Left, 2:24-cr-00456-TJH,
3 an ongoing criminal prosecution of the same defendant.
4

5 Dated: July 31, 2025

Respectfully submitted,

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9 /s/

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The government's intervention is proper and a temporary stay of this proceeding is warranted to preserve judicial resources, prevent circumvention of the criminal discovery process, and advance the public's interest in law enforcement and the integrity of criminal actions. Defendants' opposition reads less like a legal brief and more like a manifesto. Rather than address the government's core points, defendants misstate legal standards and purport to raise concerns on behalf of all "finfluencers" exercising First Amendment rights that do not override the compelling judicial, governmental, and public interests at stake. A stay would neither prejudice the plaintiff - who takes no position with regard to it - nor burden defendant. For these reasons, the Court should grant the government's motion and stay civil discovery until the conclusion of the criminal case.

II. ARGUMENT

A. The Government's Intervention is Proper and Necessary

Defendants' protest that the government lacks standing to intervene is curious, given that they simultaneously acknowledge "DOJ is often granted permission to intervene for the limited purpose of moving to stay an SEC case." Defs.'s Opp'n 8. Courts regularly allow the government to intervene to protect the integrity of criminal proceedings, and defendants cite no case holding otherwise. See Bureerong v. Uvawas, 167 F.R.D. 83, 86 (C.D. Cal. 1996) (collecting cases). Defendants' reliance on SEC v. Rampoldi underscores the weakness of their position. There, the court found the government's motion to intervene "premature" because defendants had not even

1 responded to the complaint yet. SEC v. Rampoldi, No. 16cv2017-MMA,
2 2016 WL 11621801, at *1 (C.D. Cal. Oct. 27, 2016). Here, we are well
3 past that stage – defendants have answered, discovery is imminent,
4 and the criminal trial is rapidly approaching. That defendants must
5 cherry-pick cases where intervention was denied on distinguishable
6 grounds highlights the absence of any case denying a properly
7 presented stay request in circumstances like these.

8 Defendants complain that the government's motion contains
9 "generic platitudes" while dedicating pages to irrelevant historical
10 narratives about other short sellers and industry-wide
11 investigations. The government's interest is neither generic nor
12 abstract: we seek to prevent the circumvention of criminal discovery
13 rules in an indicted case. This is precisely the type of concrete
14 interest Rule 24(a) contemplates.

15 Additionally, intervention is clearly permissible under Rule
16 24(b), because the government presented: "(1) an independent ground
17 for jurisdiction; (2) a timely motion; and (3) a common question of
18 law and fact between the movant's claim or defense and the main
19 action." Callahan v. Brookdale Senior Living Cmtys., Inc., 42 F.4th
20 1013, 1022 (9th Cir. 2022). In response, defendants argue "that may
21 be true, but such generalized platitudes fail to demonstrate a
22 compelling reason to permit DOJ to intervene." Defs.'s Opp'n 8.
23 Defendants have conjured this "compelling reason" requirement out of
24 thin air; in reality, the Ninth Circuit has instructed that
25 applications to intervene be liberally construed in favor of the
26 intervenor. Arakaki v. Cayetano, 324 F.3d 1078, 1083 (9th Cir.
27 2003). The government clearly has satisfied the conditions for
28 permissive intervention under Rule 24(b) as defendants do not even

1 challenge jurisdiction, timeliness, or the common question.
2 Accordingly, the government's motion to intervene should be granted.

3 B. The Interests of Justice Require a Stay

4 Defendants again substitute their own standard for that of the
5 Ninth Circuit in proclaiming the "principal factor in the interests-
6 of-justice analysis is whether the absence of a stay will cause
7 'substantial prejudice' to a party to the civil proceeding." Defs.'s
8 Opp'n 1; id. 8-9. Judge Scarsi recently rejected a similar attempt
9 by defendants in SEC v. FAT Brands Inc., No. 24-cv-03913-MCS-AGR,
10 2024 WL 5319127, at *2 (C.D. Cal. Dec. 13, 2024), explaining this is
11 an incorrect presentation of the Keating court's opinion and the
12 Keating factors do not impose a "substantial prejudice" standard. Id.
13 ("[T]he Keating factors guide this Court's analysis, but they do not
14 impose a 'substantial prejudice' standard that otherwise restrains
15 the Court's 'exercise of judgment, which must weigh competing
16 interests and maintain an even balance.'" (quoting Landis v. North
17 American Co., 299 U.S. 248, 254-55 (1936)). After weighing the
18 competing interests raised by defendants and the government, the
19 Court should find a stay of civil discovery is in the interest of
20 justice. Keating, 45 F.3d at 326.

21 1. A Stay Does Not Prejudice the SEC

22 The first Keating factor calls for courts to consider "the
23 interest of the plaintiffs in proceeding expeditiously with this
24 litigation or any particular aspect of it, and the potential
25 prejudice to plaintiffs of a delay." Keating, 45 F.3d at 325.
26 Defendants make much of the fact that "the SEC has not joined DOJ's
27 request for a stay" and argue "a stay would undermine the SEC's
28 strong interest in proceeding expeditiously." Defs.'s Opp'n 12-13.

1 That the SEC “takes no position with regard to [the government’s
2 motion]” is hardly the ringing endorsement of defendants’ position
3 they suggest. The SEC’s neutrality, if anything, demonstrates that
4 it is not prejudiced by a stay.

5 2. Defendants’ Interests Do Not Weigh Against a Stay

6 The second Keating factor calls for courts to consider “the
7 burden which any particular aspect of the proceedings may impose on
8 defendants.” Keating, 45 F.3d at 325. Specifically, whether
9 allowing parallel proceedings would deprive defendants of “ample time
10 to prepare [their] defense . . . and that the decision not to stay
11 the hearing [would] not unduly compromise [defendant’s] due process
12 rights.” Id. “[S]trictly speaking, this factor is not applicable
13 when the *government* is the party seeking stay and the defendant
14 opposes it. SEC v. Christian Stanley, No. CV 11-7147-GHK, 2012 WL
15 13009158, at *4 (C.D. Cal. Sept. 6, 2012) (emphasis in original).
16 However, the court can consider this factor as aimed generally at
17 considering the interests of the defendant. Id.

18 Defendants certainly have an interest in resolving this action
19 expeditiously. Defs.’s Opp’n 1 (defendants assert that “[t]he
20 pendency of the SEC’s lawsuit significantly impairs Mr. Left’s
21 personal and professional life.”). However, given the posture of the
22 criminal case, a temporary stay of discovery would not affect
23 defendants’ defense of the civil action. The criminal trial is
24 scheduled for March 17, 2026 -- just over seven months away -- after
25 which full civil discovery can proceed unimpeded. Even if the stay
26 lasted longer, as the defendants suggest (Defs.’s Opp’n 11), courts
27 have not given this argument much weight in cases, like this one,
28 where an indictment has been returned and a trial date is set. See,

1 e.g., Cho v. City of San Jose, 636 F. Supp. 3d 1034 (N.D. Cal. Oct.
2 20, 2022) (six-month delay considered short, but no trial date had
3 been set); Baker v. SeaWorld Entertainment, Inc., Case No. 14-cv-
4 2129-MMA-AGS, 2018 WL 1726534, at *3 (S.D. Cal. Apr. 10, 2018)
5 (granting stay of discovery for defined period of time); United
6 States v. Bridges, 86 F. Supp. 931 (N.D. Cal. 1949) (granting stay
7 where indictment returned and trial scheduled); Bridgeport Harbour
8 Place I, LLC v. Ganim, 269 F. Supp. 2d 6 (D. Conn. 2002); Rosenthal
9 v. Giuliani, No. 98 Civ. 8408-SWK, 2001 WL 121944, at *2 (S.D.N.Y.
10 Feb. 9, 2001) (granting stay where indictments issued, citing public
11 interest in “ensuring criminal discovery is not subverted”); SEC v.
12 Downe, No. 1:92-CV-4092-PKL, 1993 WL 22126, at *13 (S.D.N.Y. Jan. 26,
13 1993) (granting stay where government demonstrated interest in
14 protecting criminal discovery and finding defendants failed to
15 demonstrate “any prejudice if all discovery is stayed . . . for a
16 limited duration”); Twenty First Century Corp. v. LaBianca, 801 F.
17 Supp. 1007 (E.D.N.Y. 1992) (granting stay of all civil discovery
18 where indictment returned and trial scheduled). Moreover, defendants
19 acknowledge “DOJ has already produced to Mr. Left’s criminal defense
20 team the vast majority of the SEC’s documents.” Defs.’s Opp’n 9.

21 The government strongly objects to depositions of potential
22 witnesses in the criminal case proceeding in advance of trial.
23 Defendants’ concern about “fading memories” does not establish the
24 kind of hardship that would weigh against a stay. SEC v. Christian
25 Stanley, Inc., No. CV117147GHKMANX, 2012 WL 13009158, at *5 (granting
26 stay of civil discovery where defendant made no specific showing of
27 whose recollections would fade during the stay). The example
28 provided by defendants involves statements in March 2025 by [REDACTED]

1 [REDACTED], while defendant Left is charged with
2 securities fraud related to his trading and statements related to
3 Beyond Meat in May 2019. Ind. ¶¶ 53-57 (Count 1), 111 (Count 11).
4 Moreover, defendants' Beyond Meat anecdote is irrelevant to this
5 analysis because [REDACTED]
6 [REDACTED] Defs.'s
7 Opp'n 12. It is unclear how memories would worsen in this situation
8 if a stay is granted.

9 Defendants' argument that a temporary stay of discovery would
10 prejudice their defense lacks merit. The alleged conduct occurred
11 many years ago, making it unlikely that a matter of months would
12 materially impair their ability to mount an effective defense.
13 Accordingly, this factor does not weigh against a stay.

14 3. Judicial Economy Weighs Strongly in Favor of a Stay

15 The third Keating factor calls for courts to consider "the
16 convenience of the court in the management of its cases, and the
17 efficient use of judicial resources." Keating, 45 F.3d at 325.
18 Given the overlap of factual questions and legal issues, judicial
19 economy weighs strongly in favor of staying the civil proceeding
20 while the criminal case is pending. See id. Defendants argue a stay
21 will not conserve judicial resources for two reasons: first, the SEC
22 complaint contains allegations that are not included in the criminal
23 indictment; and second, defendants boldly proclaim that "Mr. Left is
24 very unlikely to be convicted in the criminal case," and even if he
25 was, "such a jury verdict would be dead on arrival in the court of
26 appeals." Defs.'s Opp'n 13.

27 A criminal defendant's swagger is not a basis for denying a stay
28 of discovery. To hold otherwise would allow a defendant to bluster

1 his way out of a stay. The Court also need not find that "a
2 conviction would be conclusive of the SEC's entire complaint" or that
3 the government is likely "to convince a jury that Mr. Left committed
4 securities fraud," to find that a stay may conserve judicial
5 resources. Id. There is significant overlap between the proceedings,
6 and regardless of the outcome of the criminal case, collateral
7 estoppel may narrow the issues to be determined in the civil case,
8 which would benefit the court and parties. See Christian Stanley,
9 2012 WL 13009158, at *5; SEC v. Nicholas, 569 F. Supp. 2d 1065, 1070
10 (C.D. Cal. 2008); Bureerong, 167 F.R.D. at 87. Judicial economy
11 weighs strongly in favor of a stay.

12 4. The Government's Interest in a Stay Is Compelling

13 The fourth Keating factor courts consider "is the interests of
14 persons not parties to the civil litigation." Keating, 45 F.3d at
15 325. Here, the government's interest in maintaining the integrity of
16 the criminal proceeding is compelling and weighs strongly in favor of
17 a stay. See Downe, 1993 WL 22126, at *12 ("[A] stay of discovery is
18 often necessary where liberal discovery rules will allow a litigant
19 to undermine, or gain an unfair advantage in, a potential criminal
20 prosecution"); SEC v. Chestman, 861 F.2d 49, 50 (2d Cir. 1988) ("The
21 government had a discernible interest in intervening in order to
22 prevent discovery in the civil case from being used to circumvent the
23 more limited scope of discovery in the criminal matter."); SEC v.
24 Beacon Hill Asset Management LLC, 2003 WL 554618 (S.D.N.Y.
25 2003) (granting stay); SEC v. Doody, 186 F. Supp. 2d 379 (S.D.N.Y.
26 2002) (granting stay).

27 In particular, the government strongly objects to depositions of
28 potential witnesses in the criminal case proceeding in advance of

1 trial. In response, defendants cite one case, SEC v. Mazzo, No. SA
2 CV 12-1327-DOC, 2013 WL 812503 (C.D. Cal. 2013), in which the court
3 denied the government's motion to stay, without prejudice, allowing
4 the government to later argue specific depositions should be stayed.
5 The government could make a similar proffer here. However, there is
6 a critical difference between Mazzo and this case: defendant Mazzo
7 was not charged in the parallel criminal case, and for that reason,
8 Mazzo should not drive the Court's balancing here. Mazzo, 2013 WL
9 812503, at *2. In this case, the government's interest in a
10 temporary stay outweighs defendants' interest in proceeding with
11 civil discovery before the criminal trial.

12 5. A Stay Is in the Public's Interest

13 The fifth Keating factor courts consider is "the interest of the
14 public in the pending civil and criminal litigation." Keating, 45
15 F.3d at 325. Defendants' attempts to recast Mr. Left as a
16 "finfluencer" exercising his First Amendment rights and to proclaim
17 the SEC complaint "potentially impacts every person who exercises his
18 or her First Amendment right to speak publicly" grossly
19 mischaracterizes the facts and is irrelevant to the stay analysis.
20 Defs.'s Opp'n 13-14.

21 The public interest in the criminal investigation overlaps
22 substantially with the government's interest in protecting its
23 criminal investigation and is another significant factor weighing in
24 favor of a stay. In weighing the Keating factors, a trial judge
25 should give "substantial weight" to [the public interest in law
26 enforcement] in balancing the policy against the right of a civil
27 litigant to a reasonably prompt determination of his civil claims or
28

1 liabilities.” Nicholas, 569 F. Supp. 2d at 1072; see also Christian
2 Stanley, 2012 WL 13009158, at *6.

3 **V. CONCLUSION**

4 The balance of factors overwhelmingly supports granting the
5 government’s requested stay. Judicial resources will be conserved,
6 the integrity of criminal discovery protections will be preserved,
7 and the public interest in protecting the integrity of criminal
8 proceedings will be served. Additionally, a temporary stay imposes
9 no substantial prejudice or burden on the parties – the criminal
10 trial is set for March 2026, after which civil discovery can proceed.
11 Therefore, the government respectfully requests that the Court grant
12 its motion to intervene and stay discovery in this case to protect
13 the integrity of the criminal prosecution.

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22 CERTIFICATE OF COMPLIANCE

23 The undersigned, counsel of record for the United States of
24 America, certifies that this brief contains 2,305 words, which
25 complies with the word limit of L.R. 11-6.1.
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28